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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,819	01/22/2002	James G. Prather	MW002.02	9523

7590 02/23/2004

TERRELL P. LEWIS
UNIT #8
343 PALOS VERDES BLVD.
REDONDO BEACH, CA 90277

EXAMINER

RESTIFO, JEFFREY J

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,819

Applicant(s)

PRATHER ET AL.

Examiner

Jeffrey J. Restifo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-23 is/are pending in the application.
- 4a) Of the above claim(s) 18-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/1/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgments

1. Acknowledgment is made of the amendment filed 12/1/03.

Election/Restrictions

2. Claims 18-23 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7. The requirement having been made Final in paper No. 8.

Drawings

3. The drawings were received on 12/1/03. These drawings are approved.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8, 10, 11, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanley (US 3,774,929 A) and in further view of Huffman et al. (US 3,052,484 A) and Elders (US 3,162,462 A).

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With respect to claims 1, 5, and 7, Stanley discloses a multi-level personal utility cart 10 comprising a frame 16 with handle 34 having rearward upper portion, side portions, and forward lower portion, a first lower basket assembly 12,14 with open top, a second upper basket assembly 100 with open top, wherein said lower basket assembly is pivotable relative to said frame and can be collapsed independently onto said frame to form a substantially planar structure, as shown in figures 1-7. Stanley does not disclose the upper basket as being pivotally secured to the frame. Huffman et al. does disclose a cart comprising a pair of baskets 19, 20 pivotally secured to a frame 1, as shown in figures 1 and 2. It would have been obvious to one having ordinary skill in the art at the time of the invention to have pivotally secured the upper basket of Stanley, as taught by Huffman et al., in order to collapse the cart for compact storage.

Neither Stanley nor Huffman et al. disclose said lower basket assembly as having a door for accessing the interior of the lower basket when said upper basket is opened. Elders does disclose a multi-level utility cart comprising an upper basket 50 and a lower basket assembly 60 with a door 66 for accessing the interior of the lower basket, as shown in figure 3. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the utility cart of Stanley and Huffman et al. with the access door of Elders in order to allow a user to access the interior of the lower basket when the upper basket is deployed.

With respect to claims 2-4, 6, 8-11, and 17, Stanley discloses swivel wheels (or casters) 38 on said lower handle portion, a vertical support member 12 with wheels 20, front, side, and back panels on each basket assembly, and wherein said back panels

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are a planar grillwork backbone of wires 24 on said vertical members, as shown in figures 1-7.

With respect to claim 14, Stanley discloses clips 32 for securing the lower basket, as shown in figure 7. Stanley does not disclose the clips for securing the upper basket to the lower basket. It would have been obvious to one having ordinary skill in the art at the time of the invention to have applied the clips used to secure the lower basket of cart of Stanley, Huffman et al., and Elders, to the upper basket for securing it to the lower basket.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stanley, Huffman et al., and Elders, as applied to claim 1 above, and further in view of Luff (US 3,310,317 A).

None of Stanley, Huffman et al., or Elders disclose a parallel hook member on the cart for hanging the cart. Luff does disclose a parallel hook member 44, as shown in figure 1. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the cart of Stanley, Huffman et al., and Elders with the parallel hook member of Luff in order to hang the cart when not in use.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stanley, Huffman et al., and Elders, as applied to claim 1 above, and further in view of Sawyer et al. (US 5,901,482 A).

None of Stanley, Huffman et al., or Elders disclose tag holders on the front panels. Sawyer et al. discloses tag holders 22, 24 for attachment to a front panel of a shopping cart 10, as shown in figure 1. It would have been obvious to one having

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ordinary skill in the art at the time of the invention to have provided the cart of Stanley, Huffman et al., and Elders with the tag holder of Sawyer et al. in order to place advertising tags on the cart.

Allowable Subject Matter

8. Claims 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 1-11 and 14-17 have been considered but are moot in view of the new ground(s) of rejection. The added language of claim 1 warranted the new(Final)rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (703) 305-0579. The examiner can normally be reached on M-F (10:00-6:00), alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



JJR

February 19, 2004

Jeffrey J. Restifo
Examiner
Art Unit 3618



BRIAN L. JOHNSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

2/19/04